

**INDIVIDUAL PRACTICES OF  
UNITED STATES DISTRICT JUDGE VICTOR MARRERO  
SOUTHERN DISTRICT OF NEW YORK**

**Effective September 9, 2006**

**Chambers**

Suite 660  
United States Courthouse  
500 Pearl Street  
New York, New York 10007  
(212) 805-6374

**Courtroom**

Courtroom 20B  
United States Courthouse  
500 Pearl Street  
New York, New York 10007  
(212) 805-6374

**I. COMMUNICATIONS WITH CHAMBERS**

**A. Letters.** Except as otherwise provided below, communications with Chambers shall be by letter, with copies simultaneously delivered to all counsel in the same manner that they are delivered to Chambers. Letters must identify the name and docket number of the case, contain the writer's business address and telephone number, be signed by the attorney responsible for the matter and show the method of delivery (e.g., "By Hand" or "By Fax"). Unless the Court has otherwise requested, copies of correspondence between counsel shall not be sent to the Court.

**B. Telephone Calls.** Except as provided in Paragraph I(D) below, telephone calls to Chambers regarding any pending matter will be accepted only in urgent situations requiring immediate attention. In such situations only, call Chambers at (212) 805-6374. Counsel should not call the Judge's law clerks with substantive or procedural questions.

**C. Faxes.** Faxes to Chambers are permitted only if the letter or document is no longer than five pages and if a copy is simultaneously faxed to all counsel or to plaintiffs proceeding pro se. The fax number is (212) 805-6382. Any faxed letter or document exceeding five pages will not be accepted unless prior authorization has been granted. Do not follow faxed letters with hard copy.

**D. Docketing, Scheduling, and Calendar Matters.** For docketing, scheduling, and calendar matters, call Chambers between 9:00 a.m. and 5:00 p.m. at (212) 805-6374 and ask for the law clerk responsible for the case.

**E. Courtesy Copies.** Two courtesy copies of all motion papers, and one courtesy copy of all other filings (including pleadings, stipulations, and all submissions to the Orders and Judgments Clerk), marked as such, shall be submitted to Chambers at the time the papers are served or filed, in accordance with the SDNY policies regarding mail deliveries. **Courtesy copies shall be submitted to Chambers in ECF and non-ECF cases.** In any expedited proceeding, parties shall ensure that courtesy copies are delivered in a manner that enables their timely consideration by

the Court (e.g., by hand delivery or fax to chambers).

**F. Extensions/Adjournments.** A request for an extension of time within which to make a submission to the Court or for an adjournment of an appearance with the Court must be made in writing and received in Chambers not less than two business days before the scheduled time. Each request must include the number and disposition of any prior request(s) for an extension or adjournment and state whether opposing counsel consents to the extension or adjournment. If counsel does not consent, the reason(s) must be provided. If the requested extension or adjournment affects any other scheduled dates, a proposed Revised Case Management Plan must be attached for the Court's review and signature. The party requesting an extension or adjournment shall be responsible for notifying all other parties of the Court's disposition of the request.

## **II. MOTIONS**

**A. Pre-Motion Conferences in Civil Cases.** A conference must be requested before the filing of any motion, except for: motions brought by order to show cause based on a legitimate emergency; motions required by the Federal Rules of Appellate Procedure to be made by a certain time; motions made by a pro se litigant in custody; motions for default judgment, pro hac vice admission, reargument, remand, or attorney's fees or sanctions; motions to dismiss in lieu of an answer or to affirm or vacate an arbitration award; and objections to a Magistrate Judge's ruling. The attorney who will serve as principal trial counsel must appear at all conferences with the Court.

A party wishing to make a motion not listed above should send a letter to the Court concisely describing the basis for the proposed motion and requesting a pre-motion conference. Any party opposing the motion must submit a reply letter within two business days of receiving the pre-motion letter indicating whether the proposed motion is opposed, and if so, the basis for the opposition. Pre-motion letters shall not exceed two pages.

**B. Memoranda of Law.** All motions and cross-motions must be accompanied by a memorandum of law. Memoranda of law in support of and in opposition to motions shall be limited to 25 pages, and reply memoranda shall not exceed 10 pages. Memoranda should be double-spaced and in 12-point font with 1-inch margins. Memoranda of 10 pages or more shall contain a table of contents and a table of authorities.

Any memorandum that does not comply with these requirements will not be accepted and will be returned, and counsel may not be provided with additional time to submit a complying memorandum if any such additional extension may cause substantial prejudice to other parties in the case. The Court will entertain written requests for exceptions to these page limitations only in rare cases where the facts and issues are particularly complex. Sur-reply memoranda will not be accepted without prior permission of the Court.

**C. Documentation.** Affidavits accompanying any motion should contain concise statements attested to by the affiant on the basis of personal involvement or knowledge of pertinent facts. Affidavits shall not be used as a vehicle for counsel to assert matters not within their personal

knowledge or for supplemental argumentation of legal issues that would serve to evade the page limitation set forth in the Court's Individual Practices. Such submissions will not be considered and shall be returned. If depositions are cited in Memoranda of Law and attached thereto, the exhibit should not be limited to clipped excerpts or selective pages, but should include either the entire relevant testimony of the person deposed or, if it is too extensive, all of the pertinent testimony setting forth contextually the matter addressed. In connection with motions for summary judgment, Local Rule 56.1 Statements shall be "short and concise," and shall not be used for argumentation of legal issues or extensive recitation of deposition testimony or repetition of conclusory pleadings.

**D. Service.** Notices of motion, affidavits and memoranda of law shall be served in accordance with the dates set by the Court during the pre-motion conference. If a pre-motion conference is not required (paragraph II(A), supra), counsel should follow Local Civil Rule 6.1, unless otherwise ordered by the Court. Any party seeking summary judgment in whole or in part against a pro se litigant must plainly advise that litigant of the nature of the motion, of the possible consequence of failing to respond, and that the Court will deem true the statements contained in a Local Rule 56.1 statement unless controverted. Failure to comply with this requirement may result in a sua sponte denial of the motion. In connection with motions for summary judgment, where the Court may deem it appropriate, the parties may be directed to serve their Local Rule 56.1 statements for the Court's review prior to proceeding with service of the fully prepared motion.

**E. Filing.** All motion papers shall be filed in the Clerk's Office or via ECF promptly after service.

**F. Oral Argument.** Motions will be decided on the papers after all moving papers have been submitted, unless the Court determines that oral argument will be required. If oral argument is scheduled, the Court will advise the parties of the date and time for argument. Counsel should expect that the Court will have reviewed motion papers prior to oral argument and will be familiar with the issues presented therein.

### **III. DISCOVERY DISPUTES**

In the event a discovery dispute arises that the parties are unable to resolve among themselves, they shall confer and submit to the Court a joint letter setting forth the matters that remain unresolved following such conference. The letter shall describe concisely the issue(s) in dispute and the respective position of each party and cite applicable authority which the respective parties claim for support. The Court will rule upon the written submission, or refer the dispute to the designated Magistrate Judge for resolution, particularly where the circumstances indicate that the parties' discovery disputes are continuous or chronic.

### **IV. PRETRIAL PROCEDURES: CIVIL CASES**

**A. Pretrial Conferences.** The Court will endeavor to schedule an initial case management conference within 45 days after the filing of the complaint. Counsel shall confer and jointly prepare (a) a joint status letter addressing (1) a brief description of the case, including the factual and legal

bases for the claim(s) and defense(s); (2) any contemplated motions; (3) the prospects for settlement; and (4) whether the parties consent to proceed for all purposes before the Magistrate Judge designated for this action.; and (b) a Case Management Plan in the form supplied by the Court. The status letter must be received by the Court at least five business days before the initial case management conference. The completed proposed Case Management Plan shall be brought to the initial case management conference for approval and endorsement by the Court. The attorney who will serve as principal trial counsel must appear at all conferences with the Court. **Appearances by telephone will not be permitted without express prior permission of the Court.**

At the initial conference, counsel should be prepared to address adequately the basis for subject matter jurisdiction and whether or not all of the jurisdictional prerequisites have been satisfied in the case. Where appropriate, such discussions shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount. Counsel should further be prepared and authorized to discuss the factual and legal bases for their claims, any contemplated motions and prospects for settlement through assistance of the Court, mediation services or other dispute resolution method. Counsel should also address the option of proceeding to resolution of the case by a Magistrate Judge of the Court pursuant to 28 U.S.C. § 636(c).

**B. Filings Prior to Trial.** Unless otherwise ordered by the Court, not less than 30 days prior to a firm date scheduled for the trial, the parties shall submit to the Court the pretrial submissions described in Attachment 1 to these Individual Practices.

## **V. PRETRIAL PROCEDURES: CRIMINAL CASES**

**A. Initial Pretrial Conference.** The Assistant U.S. Attorney assigned to the case shall contact Chambers as soon as possible after the case is assigned to the Court for scheduling of a prompt conference at which the defendant will be present in order to set a discovery and motion schedule. The Court refers all arraignments and initial bail applications to the Magistrate Court in the first instance, unless there is good cause to proceed directly before the Court. The Assistant shall provide a courtesy copy of all charging documents to Chambers as soon as practicable.

**B. Pleas.** The plea agreement or Pimentel letter must be provided to Chambers at least two business days before the time set for the conference at which the disposition is to be addressed. Defense counsel are expected to have reviewed any plea, cooperation, or other agreement with the defendant prior to the time set for the conference with the Court.

**C. Sentencing.** Any request for adjournment of a sentencing shall be made in writing as early as possible, but no later than two business days before the date at issue. Such requests should state whether opposing counsel consents. All submissions and applications with respect to a sentencing shall be served and submitted to the Court in sufficient time to ensure that the Court has received all such papers and all responses thereto by no later than five business days prior to the sentencing.

**D. Filings Prior to Trial.** Unless otherwise ordered by the Court, not less than 30 days prior to a firm date scheduled for the trial, the parties shall submit to the Court the pretrial submissions described in Attachment 1 to these Individual Practices.

**VI. TRIAL PROCEDURES**

Counsel with either jury or bench trials scheduled before the Court are to comply with the Court's trial procedures set forth in Attachment 1.

**VI. MISCELLANEOUS**

**A. Default Judgment Procedures.** A party who wishes to obtain a default judgment must proceed by way of the procedure set forth in Attachment 2.

**B. Bankruptcy Appeals.** Briefs must be submitted in accordance with Fed. R. Bankr. P. 8009. Counsel may extend these dates by stipulation submitted to the Court no later than two business days before the brief is due.